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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,677	04/17/2001	Sapoty Brook		9883

7590

07/24/2003

SAPOTY BROOK
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EXAMINER

GARRETT, ERIKA P

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 07/24/2003

10/26/03

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,677

Applicant(s)

BROOK, SAPOTY

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/14/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 7-10, 12, 15, 16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7-10, 12, 15, 16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,5,7-10, 12,13,15, 16, 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant attention is drawn to the phrase "joining means" is unclear and indefinite. The phrase "joining means" is not disclosed in the specification.

Claims 8-10, 12-13, 18-20 recites the limitation "a first part retaining means & a second part retaining means". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Mackenzie (5,868,463). Mackenzie discloses the use of a convertible

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inflatable furnishing comprises an inflatable base (12) including a base lower skin which forms a layer of the upper side of the base, a base lower skin which forms a layer of the lower side of the base, and a rim side which links the edge of the upper side of the base to the edge of the lower side of the base, a fixing means to fix the backrest to the base, a first and second joining means (34) joining the fixing means (located on the backrest) to the backrest and the fixing means to the base upper skin; an air passage between the base (12) and the backrest (14) allowing a flow of air between the inside of the base and the inside of the backrest when loads on the base and backrest change; the first and second joining means are non-translocatable; the fixing means is sufficiently flexible to allow the backrest to recline and erect increasingly with deflation of the backrest including when the backrest is under an increasing load.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7, and 15-16 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackenzie in view of Gancy (5,608,931). Mackenzie further discloses the use of a bladder, a cover and applies tension substantially throughout the cover; and a nozzle for inflation and deflation of the bladder. Mackenzie shows the use of all the claimed invention but fails to show the use of a connecting means completely

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inside of the backrest, wherein the connection means includes an elastic material biasing the region of the base upper skin to the front side of the backrest. Gancy teaches the use of a connecting means (30) completely inside of the backrest, wherein the connection means includes an elastic material biasing the region of the base upper skin to the front side of the backrest. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the inflatable furnishing with a connecting means completely inside of the backrest, wherein the connection means includes an elastic material biasing the region of the base upper skin to the front side of the backrest as taught by Gancy, in order to provide a flexible support to the backrest.

Claims 8-10, 12 and 18-20 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackenzie in view of Tai (5,560,056). Mackenzie shows the use of all the claimed invention but fails to show the use of a first and second retaining means which can be fastened together to retain the backrest in a substantially deflated state and for the purposes of portability; wherein the first part of the retaining means and the second part of the fastening means is also the second part of the retaining means. Tai teaches the use of a first and second retaining means which can be fastened together to retain the backrest in a substantially deflated state and for the purposes of portability; wherein the first part of the retaining means and the second part of the fastening means is also the second part of the retaining means, see figures 4-5. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the inflatable furnishing with the retaining means as taught by Tai, in order to provide easy transport.

Response to Arguments

The examiner has considered and reviewed the applicant's Amendment, filed on February 14, 2003.

Applicant's arguments with respect to claims 1, 5, 7-10, 12, 15-16, 18-20 has been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

EG
July 14, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600